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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 23 June 2003 from the Permanent Representative of Liechtenstein to the United Nations addressed to the Chairman of the Committee

The Permanent Representative of the Principality of Liechtenstein to the United Nations presents his compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit herewith the report of Liechtenstein prepared in accordance with paragraph 6 of Security Council resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 23 June 2003 from the Permanent Representative of Liechtenstein to the United Nations addressed to the Chairman of the Committee

Report of Liechtenstein to the Security Council Committee established pursuant to resolution 1267 (1999)

I. Introduction

In resolution 1455 (2003), paragraph 1, the Security Council decided to "*improve the implementation of the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002)*", directed against members of the Taliban and the Al-Qaida organization as well as persons, groups, enterprises, and installations connected with them. In paragraph 6, all States are called upon to "*submit an updated report to the Committee no later than 90 days from adoption of this resolution on all steps taken to implement the measures referred to in paragraph 1 above and all related investigations and enforcement actions, including a comprehensive summary of frozen assets of listed individuals and entities within Member State territories, unless to do so would compromise investigations or enforcement actions*".

Liechtenstein submits the following report pursuant to paragraph 6 of resolution 1455 (2003). The report is structured according to the list of questions compiled by the Committee for this purpose.

Liechtenstein has previously submitted several reports that are relevant in this context. With regard to specific areas reference will be made to the detailed explanations in these reports:

- Report to the 1267 Committee of 24 June 2002 (S/AC.37/2002/67),
- 1st report to the CTC of 21 December 2001 (S/2001/1253),
- 2nd report to the CTC of 18 July 2002 (S/2002/788),
- 3rd report to the CTC of 3 March 2003 (S/2002/273).

Some general information on Liechtenstein will first be presented in order to facilitate understanding of the specific answers to the questions of the Committee that follow.

Liechtenstein is home to a highly developed financial center. The instruments for regulating and supervising the financial center are in line with the relevant international standards. Various evaluations and assessments — for example by the Financial Action Task Force (FATF); MONEYVAL, the expert committee of the Council of Europe on money laundering; and the International Monetary Fund and the World Bank — have corroborated this high quality. The relevant legal structure is characterized by the vicinity of the two neighboring States Switzerland and Austria: While criminal law and criminal procedure are modeled on Austrian law, administrative law provisions on due diligence are based on the Swiss example. Private law (in particular the creation of foundations, establishments, trusts, etc.), however, is genuine Liechtenstein law. Liechtenstein maintains a particularly close relationship with Switzerland through their currency and customs union as well as other bilateral treaties on law enforcement cooperation. Liechtenstein has also

adopted the Swiss legal framework concerning foreigners and domicile, and it relies on the Swiss federal authority (Swiss Federal Office for Immigration, Integration and Emigration of the Federal Department of Justice and Police) for enforcement of this law. Also relevant in this context is the membership of Liechtenstein in the European Economic Area (EEA), which entails harmonization with European developments especially in the area of economic legislation.

After the approval by the Government on 9 May 2003 the Liechtenstein Parliament (Landtag) is considering a comprehensive legislative package on combating terrorism. It includes, inter alia, a series of adjustments of criminal law provisions and the Due Diligence Act. The relevant legislative amendments are annexed to this report in English translation and were explained in the second report to the CTC (paragraphs 6-10) and in the third report to the CTC (paragraphs 3-5).

In connection with the consideration of this package Parliament approved already on 15 May 2003 the ratification of the Convention for the Suppression of the Financing of Terrorism, the last remaining convention in this area. The deadline for requesting a popular referendum is 23 June 2003. This international legal instrument will then enter into force for Liechtenstein on the 30th day after deposit of the instrument of ratification in accordance with article 26 paragraph 2 of the Convention.

1. Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

The manageable size of the country turns out to be an advantage with regard to aspects of combating terrorism: It is practically impossible to stay in the territory of Liechtenstein for a prolonged period of time without the knowledge of the authorities. Terrorists are neither harbored nor recruited in Liechtenstein. In particular, there have been no direct activities by Usama Bin Laden, Al-Qaida, or the Taliban. The greatest threat for Liechtenstein lies in the danger of abuse of the financial center for the financing of terrorism. The Government does not accept any such abuse and is determined to prevent, by all legal means, that terrorist activities are aided or abetted. This is ensured by means of an extensive legislative framework, close international cooperation, and effective implementation of the relevant UN resolutions.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administration structure, including financial supervision, police, immigration control, customs and consular authorities?

The list is implemented in Liechtenstein through the Ordinance of 10 October 2000 on Measures concerning Persons and Organizations connected with Usama bin Laden, the "Al-Qaida" Group, or the Taliban, Liechtenstein Legal Gazette (Landesgesetzblatt, LGBl.) 2000 No. 186, the so-called "Taliban Ordinance". By means of this ordinance, which is continuously updated with the most recent persons and entities listed by the Security Council, all assets of these persons and entities that are subject to Liechtenstein jurisdiction are frozen by force of law. Financial institutions are required to notify the Government accordingly. The relevant

professional associations continuously receive the most recent lists in electronic format. In October 2001, the Coordination Task Force on Terrorist Financing was established for operative coordination (see organizational chart in the Annex). In particular, this task force encompasses the supervisory authorities, the law enforcement authorities (Office of the Public Prosecutor and the police), and the Office of Foreign Affairs. In addition, the Government Legal Services and representatives of the Justice Ministry are regularly included. Immigration authorities are represented by the police, who monitor implementation in Liechtenstein of decisions made in Switzerland in this area, together with the Liechtenstein Immigration and Passport Office. The functions of the customs authority are exercised by the Swiss corps of border guards (see part IV below on travel ban).

Further information concerning this question may be found in the report to the 1267 Committee mentioned above (paragraphs 3-6) and in the first report to the CTC (paragraphs 11 and 43-45).

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

Implementation has generally been unproblematic, and cooperation with the financial center has been good. Unambiguous identification of natural persons and legal entities on the continuously updated list of the Sanctions Committee has, however, created some difficulties. In the case of natural persons, it is often not possible to freeze accounts without a date of birth. In addition, some of the aliases listed give rise to confusion. In the case of legal entities, executing authorities and financial institutions depend on the proper spelling of the names of the entities. Otherwise, unambiguous identification and therefore the freezing of accounts are again not possible. Similar difficulties have already been noted in the past with regard to other sanction measures of the Security Council targeting individuals and entities.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

In total, six of these entities have been located in Liechtenstein. The corresponding assets have been frozen by force of law pursuant to the Taliban Ordinance (see question 2); in all cases, the relevant financial institutions have notified the Government. Information on these cases was submitted to requesting authorities pursuant to legal assistance requests. Moreover, a domestic prosecution and the necessary legal steps pertaining to financial supervision have been initiated.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

No such names are known that are not already on the list.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

The listed entities have undertaken no legal steps against the Liechtenstein authorities.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

No such persons have been identified in Liechtenstein.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

In the framework of the counterterrorism package, Liechtenstein intends to introduce the criminal offense of "terrorist group" (§ 278b of the Criminal Code). The inclusion of this offense will criminalize mere participation in a terrorist group as a member. Whoever recruits other persons for terrorist purposes likewise commits a criminal offense according to § 278b paragraph 2, as indicated also in the explanations of the Government on the legislative proposal. Independently of this legislative amendment, existing law already considers the recruitment of terrorists as aiding and abetting or even as perpetration of actual terrorist activities such as kidnapping, blackmail, etc.

As already mentioned under question 1, the greatest danger of terrorist activities that may affect Liechtenstein lies in the possibility of support activities. These relate to the financing of terrorist activities, the subject of the following chapter of this report.

III. Financial and Economic Assets Freeze

9. Please describe briefly: the domestic legal basis to implement the asset freeze required by the resolutions above; any impediments under your domestic law in this context and steps taken to address them.

As already indicated under question 2, the list of the 1267 Committee is implemented in Liechtenstein by means of the Taliban Ordinance. This ordinance forms the legal basis for freezing all assets of the listed entities by force of law. No legal or factual obstacles to implementation of the ordinance exist; however, the difficulties concerning precise identification of some persons or entities as explained under question 3 are again relevant in this context.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama Bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The identification of finance networks of terrorist groups represents an enormous challenge. First and foremost, it requires intense, efficient, and comprehensive national (internal) and international cooperation and corresponding information exchange. Internal coordination in Liechtenstein for this purpose is undertaken by the Task Force on Terrorist Financing (see question 2; further information on the Task Force may be found in paragraph 18 of the second report to the CTC and in the Annex to this report). Internationally, this cooperation is undertaken directly on the one hand between various partner authorities, such as from FIU to FIU, public prosecutor to public prosecutor, and financial supervisory authority to financial supervisory authority. On the other hand, exchange takes place through active membership in various international expert organizations, in particular the Council of Europe (membership of the FIU in the bureau of MONEYVAL), the Egmont Group (a coordination group of 69 FIUs worldwide), and through expert activities for FATF, MONEYVAL, and the IMF/World Bank. The police maintains its own networks, bilateral cooperation treaties, and regional cooperation agreements.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama Bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities or agencies responsible for the oversight.

All financial intermediaries falling within the scope of the Due Diligence Act (banks, trustees, attorneys, insurance companies, investment companies, the postal service, exchange offices, etc.) are required to identify each client by means of an unambiguous, official and conclusive document. Moreover, the beneficial owner of the asset must be disclosed. A profile on each client must be compiled, describing in particular the assets and the general circumstances of the client and enabling an actual profiling. The financial intermediary is then legally required to continuously monitor the business relationship, if necessary by obtaining additional information from the client and documenting these inquiries in writing. These due diligence requirements in the narrow sense are monitored by a supervisory authority established specifically for this purpose, the Due Diligence Unit.

Every financial intermediary is required to submit a Suspicious Activity Report (SAR) to the FIU in case of suspicion of money laundering, predicate crimes of money laundering, or organized crime. This requirement also applies in cases of suspicion of terrorist groups or financing of terrorism, in analogous application of article 9 paragraph 2 of the Due Diligence Act. Soon, this practice will also be explicitly enshrined in the legislative text itself by means of the counterterrorism package.

The Due Diligence Unit and the FIU publish joint directives on improved identification of suspicious transactions and business relationships (indicator lists). Non-compliance with these legal obligations leads to administrative or criminal sanctions. In addition to fines, it is of particular note in this context that licenses to operate as a financial intermediary may be revoked in extreme cases.

Further information on the due diligence obligations of financial intermediaries may be found in the first report to the CTC (paragraphs 29, 30, 39, and 43-45), in the second report to the CTC (paragraphs 4, 5, 11, and 12), and in the third report to the CTC (paragraph 2).

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities." Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen;**
- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **the value of assets frozen.**

The bank accounts of two entities with a total value of 182,000 Swiss francs have been frozen. This amount may appear to be small at first glance. However, the amount is understandable when the following fundamental remarks on the Liechtenstein financial center are taken into account:

The Liechtenstein financial center is essentially an offshore financial center. This means that the financial sector primarily caters to company structures. Asset management, trusts, etc., and the requisite bank accounts and activities are conducted in their name, often beyond the borders of Liechtenstein. For this reason, companies registered in Liechtenstein that are affected by sanctions do not in every case hold assets classifiable as located in Liechtenstein.

Moreover, the findings of the Financial Intelligence Unit indicate that cases of money laundering in Liechtenstein only occur in the second and third phases, i.e., in the phases of disguising assets and integrating them into legal economic circulation. Typically, these phases are characterized by mediator structures conducted through attorney and trustee offices, asset managers, etc., so that the determination of the actual beneficial owner necessitates enormous effort and lengthy investigations. In order to combat this phenomenon, Liechtenstein has in recent years increasingly integrated itself into an institutionalized international relationship network.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or

entities. If so, please provide reasons, amounts unfrozen or released and dates.

Liechtenstein has so far released none of these frozen assets.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**
- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**
- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

Through the appropriate professional associations, the financial intermediaries are kept informed about the ongoing adjustments of the Taliban Ordinance. The financial intermediaries undergo continuous training, as required by the provisions of the Due Diligence Act. Monitoring of in-company implementation is ensured by the Due Diligence Unit and relevant audits.

Every financial intermediary is required to submit Suspicious Activity Reports to the FIU, if suspicion of money laundering, predicate crimes of money laundering, or organized crime arises in the course of the business relationship. The FIU analyzes these reports and decides whether to forward them to the Office of the Public Prosecutor for initiation of investigation or prosecution. Details on the evaluation may be found in the annual report of the FIU (2001 and 2002, just published on 2 April 2003, see Annex).

In the framework of a further revision of the Due Diligence Act to incorporate the 2nd EU Directive on Money Laundering, the already broad scope of application of

the Act will be extended to include the trade in valuables. This legislative amendment will be undertaken in accordance with the EU timetable. The amendment will be introduced after parliamentary consideration and adoption, likely not before 2004.

Liechtenstein is not a cash economy. Alternative remittance systems are as of yet unknown. In any case, such activities would require approval by the competent authority.

For further information on this cluster of questions, see question 11 above, as well as the first report to the CTC (paragraphs 36-45), the second report to the CTC (paragraphs 4, 5, 11, and 12), and the third report to the CTC (paragraph 2).

IV. Travel Ban

As a general matter, the Customs Treaty with Switzerland of 29 March 1923 is relevant in connection with the question of the travel ban (IV) and the arms embargo (V). The provisions of the Customs Treaty stipulate that the entirety of Swiss customs legislation is applicable to Liechtenstein, as well as those provisions of Swiss federal law that are relevant to the implementation of the customs union. For the implementation of United Nations sanctions affecting immigration and customs matters, this entails that the legal situation in Liechtenstein cannot be considered separately from the Swiss situation, and that the implementation of these provisions is undertaken in cooperation between Swiss and Liechtenstein authorities.

Liechtenstein legislation on the implementation of sanctions is currently undergoing detailed review. The Government has appointed a working group mandated to submit a report on revision of the implementation of all sanctions by 1 September 2003. The group discusses, inter alia, the creation of a central coordinating body for a more efficient implementation of financial sanctions and the need for revision of the internal legal basis of economic sanctions.

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The Swiss immigration provisions apply to entry into and transit through Liechtenstein. In particular, Swiss law concerning passport and visa requirements applies. Liechtenstein accordingly does not issue visas without the consent of the competent Swiss authority in the Federal Department of Justice and Police. In accordance with this logic, the implementation of immigration provisions and therefore of the entry and transit prohibitions mandated by the cited resolutions is the responsibility of the Swiss border control authorities. Further information on this question may be found in the first report to the CTC (paragraph 61).

16. Have you included the names of listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

The answer to these questions falls within the scope of responsibility of the Swiss border control authorities (see question 15).

V. Arms Embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

The Swiss Federal War Materiel Act of 13 December 1996, which is applicable in Liechtenstein, and the ordinances implementing it are of primary legal relevance in this context. Article 7 of the Act prohibits the development, production, procurement, purchase, import, export, transit, and stockpiling of nuclear, biological, or chemical weapons, as well as contributory acts. This provision is also applicable to offenses committed abroad, if the perpetrator is a Liechtenstein citizen or is resident in Liechtenstein. The Swiss State Secretariat for Economic Affairs is responsible for enforcement of the Act. Export control is likewise the responsibility of Swiss federal authorities, pursuant to the customs union with Switzerland. In addition, the Swiss Embargo Act, which entered into force on 1 January 2003, is applicable in Liechtenstein, to the extent that it is relevant to areas covered by the Customs Treaty (sale of commodities and armaments, restrictions on the movement of persons).

This regulatory framework is supplemented by the Liechtenstein Ordinance on the Procurement of War Materiel, LGBl. 1999 No. 185. The procurement of nuclear, biological, and chemical weapons and of anti-personnel mines is prohibited. The procurement of other weapons must be approved by the Government. Compliance with the ordinance is monitored by the National Police.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

Violations of the arms embargo are punished as infringements of article 4 of the Law on Measures concerning Economic Transactions with Foreign States with a fine of up to one million Swiss francs, in accordance with article 1 in connection with article 6 of the Taliban Ordinance (e.g., for procurement, technology transfer, or technical support). The fine is without prejudice to further penal provisions of the Swiss war materiel and commodities control legislation applicable in Liechtenstein

pursuant to the Customs Treaty (especially concerning export), which specify maximum sentences of up to ten years imprisonment in serious cases.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

The relevant licensing systems are governed by the Swiss war materiel and commodities control legislation (with respect to import, export, transit, trade and manufacture), as well as in the Liechtenstein Ordinance on the Procurement of War Materiel with respect to the procurement, foreign trade, and transfer of incorporeal rights and know-how. Basic licensing in accordance with this ordinance is conditioned upon requirements such as the guarantee of proper management, and the license may also not result in damage to national interests. In addition, individual approval must be obtained for specific transactions, conditioned upon compliance with international law, international obligations, and the interests of Liechtenstein foreign policy. The applicant must present all essential information concerning the transaction and is above all obligated to verify the identity of the contracting party, in conjunction with comprehensive information, accounting, and due diligence duties. In the case of an arms embargo imposed by the Security Council, the granting of a license is precluded.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

Neither weapons nor ammunition are produced in Liechtenstein.

VI. Assistance and conclusion

24. Would your state be willing or able to provide assistance to other states to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details and proposals.

Liechtenstein is willing to provide assistance through expertise, in particular in the areas of legislation, due diligence and organization of authorities (FIUs, executing authorities). A list to this effect has been made available to the CTC which also applies in this context.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

Already in the wake of the events of 11 September 2001, Liechtenstein identified remaining gaps in its legal prevention framework and elaborated appropriate proposals. This counterterrorism package (see introduction), currently being considered by Parliament, aims to fill these gaps and offer the necessary legal foundations to take more effective action against terrorism and its financing.

Annexes*

Organizational chart of the Coordination Task Force on Terrorist Financing

Annual reports of the FIU, 2001 and 2002

Counter-terrorism Package

* The annexes referred to in the report are on file with the secretariat, room S-3055, and are available for consultation.